



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/174,868	10/19/98	MUSACCHIA	J 14359-016

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QM12/0802

EXAMINER

CEGIELNIK, U

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 08/02/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/174,868

Applicant(s)

Musacchia

Examiner

Urszula M.Cegielnik

Group Art Unit

3712



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-9 ~~is~~are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9 ~~is~~are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musacchia (US Pat No. 5,607,091). Musacchia teaches a hunting device that is composed of a game call portion 30 where sounds are produced, the game call portion 30 having a sound emanating surface 32, a body attachment assembly 76 to releasably attach the device to the body of a user of the device. He also discloses the hunting device as having an elevating means to elevate sound emanating surface 32 of the game call portion 30 away from the surface 34 of the body of the user. The elevating means has legs each having a first end and a second end. First end of legs 14, 16 are attached to game call portion 30, and the second end of the legs are in contact with the body limb 34 by body attachment assembly 76, as shown in Figure 1. The elevating means is composed of a platform portion 12 having a top surface 26 and a bottom surface 28, platform portion 12 supporting game call portion 30. The platform portion 12 is rectangular and includes front and rear legs 14, 16 extending from bottom surface 28 of platform portion 12. As shown in

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Figure 1, body attachment assembly 76 is encirclable about a limb 34 of the user's body to releasably secure the device against the body of the user, where legs 14, 16 elevate sound emanating surface 32 of game call portion 30 from body limb 34. Also shown is body attachment assembly 76 carried by platform portion 12; having an elongated flexible element 78 having one end 80 connected to platform portion 12, an opposite free end on flexible element 78 provided with hook 90; a receiving formation includes slot 86 in platform portion 12 of the device. The elongated flexible element is composed of a strap 78 with buckle 88 allowing for adjustment of the length of strap 78. The hunting device has a flexible tether 72 having opposing ends, and a striker 64. Opposing ends of tether 72 are attached to striker 64 and platform portion 12 of the device.

Musacchia does not disclose a hunting device for producing sounds that has a unitary construction.

The unitary construction of the hunting device would have been obvious to one of ordinary skill in the art, since this would aid in the portability and usage of the device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula Cegielnik whose telephone number is (703) 306-5806. The examiner can normally be reached Monday through Friday from 8:30AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Hafer, can be reached on (703) 308-2674. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

D. Neal Main
D. Neal Main
Examiner
Art Unit 3712

Urszula Cegielnik

Assistant Examiner